

Non-Disclosure Agreements Bill

[AS INTRODUCED]

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[AS INTRODUCED]

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Make provision about the content and use of non-disclosure agreements; and for connected purposes.

BE IT ENACTED by the King’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Interpretation

In this Act—

- “responsible party” means a person who has an obligation in law to take reasonable steps to prevent bullying, harassment or discrimination in the place where the bullying, harassment or discrimination occurred or is alleged to have occurred; 5
- “relevant person” means a person who has experienced or made allegations about harassment or discrimination;
- “discrimination” has the meaning given by sections 13 to 25 of the Equality Act 2010; 10
- “bullying” means any action, conduct or comment that could reasonably be considered to be an abuse or misuse of power that undermines, humiliates, or causes physical or psychological injury or illness to a person;
- “harassment” means any action, conduct or comment that could reasonably be expected to cause offence, humiliation or other physical or psychological injury or illness to a person and includes actions, conduct or comments of a sexual nature, including but not limited to— 15
- (a) sexual solicitations or advances, 20
 - (b) sexually suggestive remarks, jokes or gestures,
 - (c) sharing inappropriate images,
 - (d) unwanted physical contact,
 - (e) any action, conduct or comment that might reasonably be perceived as placing a condition of a sexual nature on employment, an opportunity for training, a promotion, or any other employment-related opportunity, or 25

- (f) a reprisal or threat of reprisal for rejecting a sexual solicitation or advance;

“non-disclosure agreement” means a provision in writing in a settlement agreement, however described, between a relevant person and—

- (a) a responsible party, or
 (b) a person who has committed or is alleged to have committed bullying, harassment or discrimination,

whereby the relevant person agrees not to disclose any material information about the circumstances of a dispute between them concerning allegations of bullying, harassment or discrimination;

“settlement agreement” means an agreement between two or more parties that disposes of one or more issues in dispute between the parties in relation to allegations of bullying, harassment or discrimination.

2 Use of non-disclosure agreements

- (1) Other than in accordance with subsection (2), no responsible party or person who has committed or who is alleged to have committed bullying, harassment or discrimination shall enter into a non-disclosure agreement with a relevant person where—

- (a) the relevant person has experienced, or made allegations that they have experienced, bullying, harassment or discrimination; and
 (b) the non-disclosure agreement has the purpose or effect of concealing information about a complaint of bullying, harassment or discrimination.

- (2) A responsible party or a person who has committed, or who is alleged to have committed, bullying, harassment or discrimination may only enter into a non-disclosure agreement with a relevant person in accordance with this section if such an agreement is the expressed wish and preference of the relevant person concerned.

- (3) Where a non-disclosure agreement is made under subsection (2), the agreement is only enforceable if—

- (a) the relevant person has had a reasonable opportunity to receive independent legal advice,
 (b) there have been no unreasonable attempts to influence the relevant person in respect of the decision to enter into a non-disclosure agreement,
 (c) the agreement does not adversely affect—
 (i) the health or safety of a third party, or
 (ii) the public interest,
 (d) the agreement includes an opportunity for the relevant person to decide to waive their own confidentiality in the future and sets out a process for doing so, and
 (e) the agreement is of a set and limited duration.

3 Content of non-disclosure agreements

A non-disclosure agreement entered into under section 2(2) must, as far as is possible, be written in plain language.

4 Short title, commencement and extent

- (1) This Act may be cited as the Non-Disclosure Agreements Act 2023. 5
- (2) This Act comes into force at the end of the period of six months beginning with the day on which it is passed.
- (3) This Act extends to England and Wales and Scotland.

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Presented by Layla Moran

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